

Kenyan NFD Muslim Communities: The Painful Past and Pending Justice

MOHAMED SHEIKH ALIO¹

ABSTRACT

The political history of Muslim minorities in the world is one of the emerging areas in the Muslim world's contemporary issues that need to be addressed. This research examines the political history of Muslim communities in Kenya's former Northern Frontier District (NFD), which was part of Somali Jubaland but annexed to Kenya Colony by British authorities in 1925, and the challenges they confronted during British colony (1895-1963); in terms of isolation measures, political marginalization and disregarding the 1962 referendum which expressed their will to unite with Somalia. Furthermore, the study discloses the harder difficulties that encountered NFD natives after Kenya independence in 1963; which appeared through the Shifta War (1963-1967), human rights violations, chronic marginalization and pending justice over historical grievances. The research will contribute to discovering the political and social history of Muslim communities in NFD and its impact on the current situation of former NFD's residents in Kenya towards gaining a long-lasting stability in Kenya.

Keywords: Britain, Kenya, NFD Muslim Communities, Somalia, Pending Justice

Following the outcomes of Berlin Conference in 1884-85, which intended to partition Africa, Italians declared northeastern, central and southern parts of Somalia as colony in 1908, with the title 'Somalia Italiana', extending from Cape Guardafui (*Ras Asir*) at North to the Juba River in southern Somalia (Hess 1996: 102). Earlier in 1895, the Sultanate of Zanzibar, which was proclaiming sovereignty over Jubaland's coastal areas in southern Somalia, leased her coastal possessions in East Africa to Britain and thus Jubaland region became part of British East Africa Protectorate (Hansard 1895: col. 1086-88; Cassanelli 1982:197-199; Balha 2011: 38).

In 1924, Britain in conformity with the 1915 Treaty of London Agreement, granted the eastern part of Jubaland to Italy as a reward for allying itself with Britain during World War 1, but retained control over the western part of Jubaland (Castagno 1964: 165-188; Oliver 1976: 7). A year later, Britain annexed the western part of Jubaland to Kenya Colony and renamed it as Northern Frontier District (NFD) and unified it later with independent Kenya in 1963 (Barrett et al 1973:214; Osman 1993: 1-10). The main aim for annexation was to provide a buffer between Italian Somaliland and Ethiopia on one side, and the East African railway and the white settlers in the highlands on the other, deter the Ethiopian imperial power from annexing Borana and Gabra areas in NFD and to check and prevent the Somali South-westward expansion (Castagno 1964: 169).

The district was primarily composed of seven districts; Garissa, Wajir, Mandera, Isiolo, Marsabit, Moyale and Samburu, but British authority excluded the latter district later from NFD region and administered it differently. The remaining six districts divided after independence in 1963 to North Eastern Province (NEP) consisting of Garissa, Wajir and Mandera Districts, while Isiolo, Marsabit and Moyale districts merged with Eastern Province; with Moyale being under Marsabit District until 1995, when it became full district (Whittaker 2015: 4-5; Hassan: 24 October

¹ **Mohamed Sheikh Alio**, Ph. D., Department of Languages and Humanities, School of Social Sciences, Mount Kenya University, General Kago Rd, Thika, KENYA. Email: malio@mku.ac.ke

2013). The North-eastern region of NFD is populated by Somali Muslim tribes, while the central region is inhabited by non-Somali Cushitic ethnicities; like Boran, Gabra, Sakuyye, Burji, Gelubba, Konso, Rendille and Samburu; with Boran as the major and the Predominantly-Muslim ethnicity in the area, while Turkana is the only Nilotic group who live in the western parts of NFD, whereas Meru; a Bantu tribe, live in the southern parts of Isiolo District. According to a provisional census in 1962; one year before Kenya's independence, NFD had a population of 388,000, about 240,000 who were Somali (Weitzberg 2017: 98).

The importance of this article for contemporary studies is manifested through its new display and interpretation for NFD historical events which still have a great impact on the current situation of former NFD's districts in terms of marginalization, discrimination, unaddressed grievances and pending justice. The research will be useful for the Kenyan government and international community to overcome one of the historical injustices in Kenya and bridge the social and political gaps among citizens in the country towards realizing permanent peaceful co-existence and national harmony.

Colonial NFD (1925-1963)

The colonial NFD was created in 1925 when Britain annexed the Western part of Jubaland to Kenya Colony. (see figure 1).

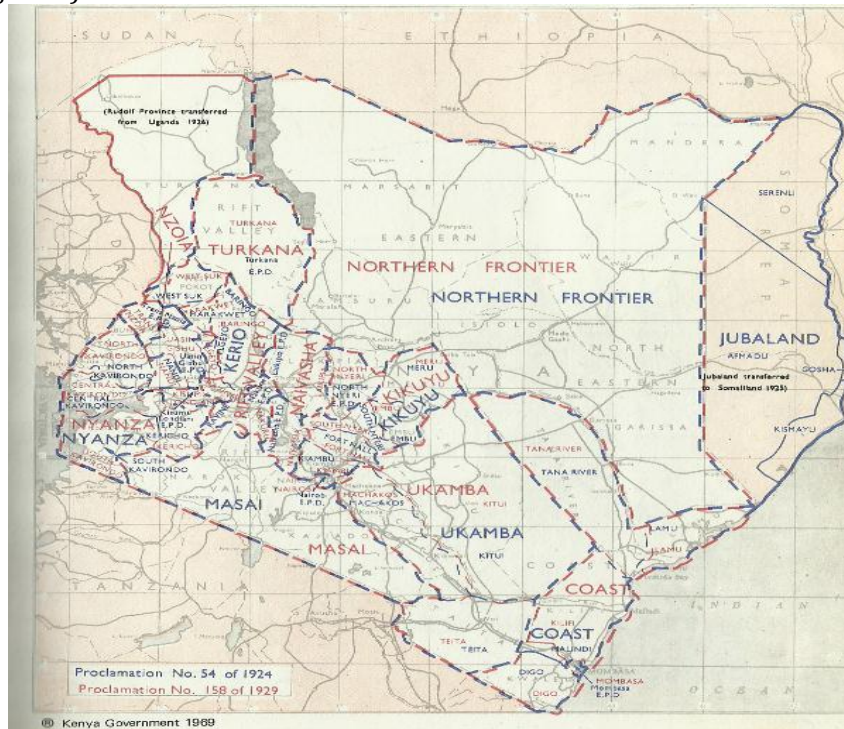


Figure 1. Jubaland (Somalia) and Northern Frontier District after division in 1924.

Source: National Atlas of Kenya, Third edition, Survey of Kenya, Nairobi, 1970, p.85.

The district was governed primarily with Jubaland since 1895, but came under effective British administration when the first administrative posts established at Archer's Post, 35 km to the North of Isiolo, and Moyale in 1909, and by 1910, John O.W. Hope, was appointed Officer-in-Charge of NFD, which was comprised about half of the entire Kenyan territory, with Isiolo as the district capital. In January 1912, another British post established at Wajir and in 1919 Moyale and Wajir were garrisoned by The King's African Rifles (Moyses-Bartlett 1956: 212, 214; Abdullahi 1997:30). Isiolo

town remained the headquarters of NFD until 1962, when Britain was preparing to hand over the district to the awaited independent Kenya (Isiolo County Assembly: 2013: 21).

Isolation Measures

Since NFD became under British rule, it became subject to series of harsh administrative rules and geographical restrictions which meant to isolate the district from the rest of Kenya Colony for cultural, religious and economic grounds. The Outlying District Ordinance of 1902, The Closed District Ordinance of 1926, Stock Theft and Produce Ordinance of 1933 and The Special District (Administration) Ordinance of 1934 effectively declared NFD as 'Closed District'; where the in and out movement was only possible under a special pass. This gave the colonial administrators extensive powers of arrest, restraint, detention and seizure of properties of 'hostile tribes'. The main aim for this isolation was to hinder social interaction between NFD peoples and the rest of Kenya Colony in order to prevent Islam from extending to the other areas (Castagno 1964: 171; Hassan: 22 October 2008).

Lack of Representation in LegCo

The first elections to the legislative council (LegCo) were held in East Africa Protectorate, now modern Kenya, was in February 1920; as the first election in the country. The new elected First Council consisted of 11 elected white members, two appointed members; representing the Indian community and one appointed member; representing the Arab community, as well as a number of appointees by Sir Edward Northey, the governor. The same year, through a Kenya Annexation Order-in-Council, the status of Kenya changed, from an East African protectorate to Kenya Colony on 23 July 1920. The following elections to the legislative council were held in 1920, 1924, 1927, 1931, 1934, 1938, 1941, 1944, 1948, 1952, 1956, 1960 and 1961. Owing to the said isolation measures, none of NFD people was represented in Kenya Colony's LegCo until 1960; three years to the independence, when Lord Ali Aden, became the first LegCo member from NFD. He was followed by Abdirashid Khalif from Wajir District in 1961, who later became treasurer for the newly formed Northern Province People's Progressive Party (NPPPP) (Richard 2014: 15-52). Abdirashid was among NFD's delegation which attended the plenary sessions of Lancaster House Conference, London, February 1962, which was held to discuss the destiny of Kenya Colony (Kariuki 2015: 372).

Struggle for Independence

Throughout 1950s, several prominent Somalis in Kenyan down country established some minor pan-Somali groups and unions, such as, Somali Independent Union (SIU), Somali National Association (SNA) and United Somali Association (USA), to draw the attention of the colonial government to the political and cultural rights of Somalis in Kenya Colony (Weitzberg 2017: 106-108).

When political activities were legalized in 1960, the people of NFD formed a number of political parties. The famous parties were NPPPP and Northern Frontier Democratic Party (NFDP). Their main agenda was the secession of NFD from Kenya and its reunion with Somalia, although there were minor pro-Kenya political parties, like, Northern Province United Association (NPUA) in Marsabit, Northern Province People's National Union (NPPNU) in Garissa and Tana River, Galla Political Union (GPU) and United Ogaden Somali Association (UOSA) in Nairobi, which were championing for the interests of some specific small communities and cartels in NFD and down country (Wittaker 2015: 26-30).

The NPPPP was a popular party which, although primarily established by Somali pro-secessionist figures, but advocated for Pan-Cushitic political and cultural rights, thus, attracted huge supporters from different Cushitic tribes in NFD, irrespective of their culture and religion, such as,

Boran, Rendille and Sakuyye and others (Weitzberg 2017: 98). Their argument for secession was that the NFD people and their territory were similar to Somalia culturally or religiously, while the rest of the country of Kenya was governed by African Native Courts. The NFD's delegation to the Second Lancaster House Conference in London, 1962, which led by NFD's LegCo member, Abdi Rashid Khalif, refused to sign the final document because it failed to make provisions for the independence of NFD (Kariuki 2015: 209-212). Responding to this instance, the Secretary of State for the Colonies, Duncan Sandys, proposed that an independent commission is appointed to investigate the desires and public opinion in the NFD regarding its future (Kromm 1967: 359-365).

The commission, which composed of Mr. G. C. M. Onyiuke of Nigeria and Major General MP Borget, CBE, DSO, CD, of Canada, started work on the 22 October until 26 November 1962. A three-point memorandum was prepared for the commission with the following points: one, secession from Kenya forthwith; two, establishment of a legislative assembly, and three, independence and reunification with the Somali Republic by an act of union. The commission visited every district in the NFD, met all political parties, chiefs, religious leaders and traders. It heard oral submissions from 134 delegations, received 106 written submissions and held meetings in Nairobi with the leaders of other political parties. The results of the referendum showed that the Somali, Borana, Rendille and Muslim population in NFD voted in favour of secession while the riverine population of Garissa and the non-Muslim minorities of Boran, Gabra, Sakuyye, Burji, Konso, Gelubba, Samburu, Turkna and Meru in Isiolo and Moyale districts voted for union with Kenya. As a result, the commission concluded on 20 December 1962 that the majority of NFD residents favoured secession from Kenya (Adar 1994: 78-83; Kariuki 2015: 232).

NFD's Destination

Despite the commission's conclusion that the majority of NFD voted in favour of secession from Kenya in the 1962 referendum, British government was unwilling to abide by the result of the commission's investigation on the grounds that it was not ready to take a unilateral decision on the future of the territory in time so close to Kenya's independence. The Kenya Regional Boundaries Commission which formed in 1963 to verify and ratify regional boundaries had included NFD as part of Kenya, forming the seventh province by the title 'North Eastern Province'; including Garissa, Wajir and Mandera districts (Whittaker 2015: 34), while the rest of NFD districts; Moyale, Isiolo and Marsabit annexed to Eastern Province. This matter was earlier discussed and agreed to at Lancaster House Conference, London, 1962, by both Kenya and British Colonial Office, which show that the two parties were not interested in the secession of NFD (Biwott: 1992).

The Secretary of State for the Colonies, Duncan Sandys, argued that although the Predominantly-Somali areas of NFD had 'overwhelmingly' expressed a desire to secede, British interests would be best served by keeping all of the NFD districts within Kenya after independence. The secession would remove the buffer between the Arab and African worlds, it would anger the Ethiopians and therefore, jeopardize the British military base in Aden, Yemen, and there was the 'hope' of oil (Whittaker 2015: 34). The move was conforming to the welfares of Kenyatta government and his Kenya African National Union (KANU) party's leaders who opposed the outcomes of the referendum and refused to secede any part of NFD. When NFD people realized that the outcome of the referendum was not honoured and their wishes were thwarted, they boycotted the 1963 elections which were held between 17 and 26 May 1963.

Meanwhile, the pro-secessionist parties and their supporters, chiefs and other elders converged in Wajir in April 1963 to decide what move they should make. At the end of the conference, it was decided that all Government employees and chiefs would resign from their jobs as an indication of their dissatisfaction. When Kenya was granted its independence in December 1963, the first move by the Kenyatta Government was to ban all political parties in NFD region and detain its leadership. Detainees included NPPPP's chairman, Wako Happi of Isiolo, vice-chairman, Alex Kholkhole of Laisamis and secretary, Dheghow Mohamed Sambul of Garissa District. Others were

able to escape the dragnet and started the Northern Frontier District Liberation Front just across the Kenya border with Somalia (Abdullahi 1997: 121).

NFD was then placed under direct rule of the colonial government, while tension heightened in Isiolo District, following the assassination of the first African District Commissioner (DC) in NFD; the Isiolo DC, Daudi Dabasso Wabera and Senior Chief, Haji Galma Dida, on 28 June 1963 at Sericho, Marsabit District, by people believed to be associated with NFD freedom. Kenya's newly independent government; which gained independence on 12 December 1963, was firm in its stand that it would not cede an inch of territory (Hassan: 22 October 2008).

Shifita War (1963-1967)

The word *Shifita* which literally refers to 'Bandit', 'rebel' or 'guerilla' is derived from *Ge'ez* term and is common in Amharic, Tigrinya, Oromo and its offshoot Borana dialect (Whittaker 2015:1). The newly independent Kenyan government installed this term, as part of a propaganda effort, to discredit the NFD secessionists who were fighting for re-union with Somalia. The war started when NPPPP's leaders declared their opposition to the inclusion of NFD in Kenya and called on their people to resist the move and fight for their political rights. Two weeks after independence, Kenya declared a state of emergency in NFD and deployed troops to counter the secessionist rebels (Biwott: 1992). Many men regrouped across all NFD regions and started attacking Kenyan administrative and police posts with unsophisticated rifles, known as *Dhuunbuur*. Most of the fighters were civil men who were not belonging to any military body. However, some sources indicate that the military wing of NFD separatists was Northern District Liberation Front (NDLF) (Weisburd 1997:108), while other sources indicate to them as Northern Frontier District Liberation Front (NFDLF) (UNDP Kenya 2010: 22), or Northern Frontier District Liberation Military (NFDLM) (TJRC 2013: 8).

Kenyan government responded harshly and launched severe military operations against the secessionists and the civil society which resulted in mass violations of human rights. To win the war, the government adopted the following strategies:

- 1- Declaring NFD as a 'closed district' to general access including members of parliament as a mean of preventing people from communicating with the outer world and media that may reveal what is really happening on the ground.
- 2- Closing NFD borders with Somalia, so that the fighters may not get any support from Somalia.
- 3- Establishing several fortified mass detention camps and villages named *kijiji* or *Manyatta* across NFD districts that were guarded by troops, assuming that anybody found outside these *manyattas* was a *Shifita* and could be attacked. The villages were more like detention camps, with poor sanitation, disease outbreaks, and substandard living conditions.
- 4- Executing mass killings or confiscations of animals; especially cattle and camel, at wells, dams and water catchment areas in different places; in order to destroy the resources of insurgents.
- 5- Poisoning water sources which caused death of animals and civilians (TJRC 2013: 8)
- 6- Removing the dynastic local Sultans, who were the traditional leaders, and replacing them with low-ranking government-appointed loyal chiefs (Mburu 1999: 89-107) who were spying on the people and send irredentists' information to the security forces.

As a result of these military offensive activities, many nomadic people lost their animals and properties and huge number of families faced starvation and started immigrating to the villages as refugees; which later turned to mass refugee influxes towards urban areas in NFD. (Howard 1986: 95).

Human Rights Violations

Following the NFD people's will to resist British authority and Kenyan new leaders' determination to block their self-determination, the newly independent Kenya declared state of emergency in NFD districts on 28 December 1963 and applied a new act by the name Preservation of Public Security (North Eastern Region) Regulations, 1963, to support the state of emergency, protect its security personnel from any legal action in future and tackle the revolution. Under the rules of that state of emergency, a five-mile 'prohibited zone' was established along the entire Kenyan-Somali border. Any person found within the prohibited zone without necessary permission was liable for imprisonment.

In effect, the regulations legitimized the use of lethal police power against any person found within the prohibited zone, irrespective of who that person was. The Kenyan authority launched many harsh punishment rules; including isolation of districts, limitation of grazing and pasture areas, killing or confiscation of stock animals at water points, forced villagization under military guard to prevent citizens from communicating with the secessionists.

The whole NFD districts were militarized, assuming all people as were *Shiftas*. These activities were accompanied by regularly-enforced curfews, detention without trial, prohibition of assembly, beating innocent citizens, committing extra-judicial killings and rape cases together with many other power abuse cases and collective punishments. (Sheikh 2007: 11-13, 128; TJRC 2013: 8).

The Kenya Army, General Service Unit (GSU) and other security personnel, which deployed to counter the uprising, were accused of committing several genocides activities during the '*Shifita War*' era and the following decades, such as, Isiolo Mosque attack in 1964 (Salesa 10 May 2011), The Garba Tulla operation in 1967 (Wittaker 2015: 126-128), The Malka Mari ambush in the same year (Mohamed, Abdirahman & Aliyow, Personal Communication: 16 August 2017), The Garse Sala attack (Ibid), The Garissa military offensive in November 1980 (Hassan: 22 October 2008), The Corner Ashraf attack in December 1980 (Wardere, Personal Communication: 1 December 2018) and The Wagalla Operation at Wajir on 10 February 1984, which caused huge death fatalities and severe torture cases (BBC: 18 October 2000; Sheikh 2007: 58-66; UNDP Kenya 2010: 22-23).

Marginalization

The colonial marginalization of NFD was social, administrative, political, educational and economic. The area, as referred earlier, was isolated and administered differently. No moving within, in and out of the district without prior permission from colonial authorities. This exercise caused social segregation and lack of trust and trade among NFD people and the rest of the country (Wa Njeri: 13 April 2015; Hassan: 22 October 2008). This marginalization extended systematically to the post-independence era. The inequalities in distribution of sources and jobs continued without any change as power and leadership remained in the hands of Christian elites from the down country. The former NFD's current counties are still among the most marginalized counties in Kenya, in terms of infrastructure, education, service and health (Commission on Revenue Allocation (CRA) 2013: 10). The government's allocated resources for the province were largely directed towards security and the maintenance of law and order and its policy has been described as one of containment not engagement. No constructive or meaningful development took place since independence because over 80 percent of the region's budget was spent on security. The net result is that the region is today the most underdeveloped and marginalized in Kenya (Hassan: 22 October 2008).

Pending Justice

Due to many historical injustices that happened to different communities in Kenya before and after independence, the Kenyan government, through a parliament act, formed an investigation commission in 2008 called: Truth, Justice and Reconciliation Commission (TJRC). Its objective was to

promote peace, justice, national unity, healing and reconciliation, among the people of Kenya by: investigating and establishing a record of human rights violations by the State, since Kenya's independence in 1963 to 2008, explaining the causes of the violations and recommending prosecution of perpetrators and reparations for victims.

The TJRC started its hearings in Garissa; one of former NFD districts in April 2011, and concluded with Nairobi at the beginning of April 2012. During the hearings, TJRC collected 42,465 statements and 1,828 memoranda from Kenyans, conducted public hearings all over the country, and victims, witnesses and alleged perpetrators gave their stories to the TJRC. The TJRC, also, conducted research and investigations. All the information was analysed and a final report compiled and handed over to president Uhuru Kenyatta on 21 May 2013 (TJRC 2013: 1).

The TJRC concluded in its report that Kenya Police and military forces have been at the center of the country's history of violations of human rights; by either committing the violations by themselves, or failing to protect Kenyan citizens. These violations of human rights include extra-judicial killings, enforced disappearances, torture and ill-treatment, as well as rape and sexual violence. The police and military forces have been the main perpetrators of these violations. On *Shifita War Between 1963 and 1967*, the TJRC findings were:

1. The *Shifita War* which took place from 1964 to 1967, between the newly independent Kenyan state and the Somali separatist movement, presents a period of widespread violations of human rights. The Military force committed mass killings, torture, sexual violence and rape against civilians. The police force, especially the General Service Unit, also committed violations of human rights. It is estimated that between 2,000 and 7,000 people were killed during the war.
2. The Somali Separatist Movement and the Northern Frontier District Liberation Military (NFDLM) also committed violations of human rights against civilians, but on a much smaller scale, compared to the Military force.
3. The Military force is responsible for large-scale confiscation and killings of cattle, especially by poisoning of water sources, which killed both cattle and civilians. The owners of the cattle were never compensated for the loss, leaving many destitute. The levels of loss reported to the TJRC range from 70 percent to 90 percent of cattle.
4. The government created restricted villages, where communities were forced to live and were forbidden to leave. These villages were more like detention camps. The living conditions were very bad, with poor sanitation, disease outbreaks, and poor security. These resulted in numerous rape cases and other violations of human rights. Some children were forcibly taken from their families and relocated to these villages.
5. The government covered up the violations committed by the police and military forces, as well as the civilian administration. It passed the Indemnity Act to protect all government officials from prosecution, for violations committed during the war. To date, the Indemnity Act is still a law in Kenya.
6. The *Shifita War* had a devastating effect on minority groups in Northern Kenya, and on the region as a whole. Currently, Northern Kenya is a neglected region with poor living conditions, lack of government services and lack of security. Discrimination against the Somali community still persists, because of the earlier separatists' ambitions expressed during the *Shifita War* (TJRC 2013: 8, 24).

The commission issued a matrix of recommendations on the human rights violations that were committed by the State between 1964 and 2008; among them the following significant clauses:

1. The State should apologize for gross violations of human rights committed by predecessor agencies between 12 December 1963 and 28 February 2008, especially acts of extra-judicial killings, arbitrary and prolonged detention, torture and sexual violence.

2. The State should compensate families of victims of extra-judicial killings, in accordance with the TJRC's Reparation Framework.
3. The Kenya government should enter into negotiations with the British government with a view of seeking to compensate victims of atrocities and injustices, committed during the colonial period, by agents of the colonial administration.
4. The State should prosecute police officers and other State agents who were involved in torture and ill-treatment of individuals during the mandate period.
5. Fast-track the enactment of human rights-related laws as envisaged by the constitution of Kenya, including freedom of the media; fair hearing; and rights of persons held in custody or detained (TJRC 2013: 7-43).

To conclude, the NFD Muslim communities were ruled differently by both British and Kenyan administrations which applied exceptional measures that resulted in many negative impacts which are still experienced by former NFD residents in Kenya. The research demonstrated that the colonial NFD residents were isolated geographically, marginalized politically and blocked from realizing their dream to unite with Somalia in 1963. In addition, it exposed that the independent Kenya has adopted the same colonial policy towards NFD region which entailed the *Shifita War* (1963-1967), series of human right violations, chronic marginalization and pending justice over historical grievances that occurred during British and Kenyan eras.

Lastly, the research is an attempt to set NFD's record straight so that the involved parties discover the defects that hindered the developmental process in NFD for a century and come up with healing mechanism that responds to the historical and current grievances of former NFD Muslim communities in Kenya.

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